

# **EXHIBIT E**

**PART 2 OF 2**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



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NANCY DENARDI, :  
Plaintiff, : Docket No.  
-against- : 07CIV5794  
DRA IMAGING, P.C. and : (MGC)  
IMAGING SUPPORT SERVICES, LLC, :  
Defendants. :

-----X

July 18, 2008

1:36 p.m.

Continued deposition of **VIRGINIA BARKYANI**,  
taken by Plaintiff, pursuant to Adjournment,  
at the offices of Keane & Beane, P.C.,  
445 Hamilton Avenue, White Plains, New York,  
before Joseph R. Danyo, a Shorthand Reporter  
and Notary Public within and for the State of  
New York.

1  
2       V I R G I N I A     B A R K Y A N I,     having  
3       been resworn by Joseph R. Danyo, a Notary  
4       Public for the State of New York, was  
5       examined and testified further as follows:

6       **EXAMINATION CONTINUED**

7       **BY MS. PERRY:**

8           Q.       Do you need me to go over the  
9       instructions again from the last time?

10          A.       No, I don't think so.

11          Q.       On May 5, 2006, when Mrs. Denardi  
12       allegedly lied to you about punching Heather  
13       out, was anybody else present?

14          A.       Present when?

15          Q.       When she allegedly lied to you.

16          A.       No.

17          Q.       When did the conversation take place?

18          A.       On May 5.

19          Q.       At what time?

20          A.       Approximately 10:05 to about 10:15,  
21       10:20.

22          Q.       That is when it took place? It took  
23       place between 10:05 and 10:15?

24          A.       The conversation that I had with  
25       her, yes.

1 V. Barkyani

2 A. The first sentence, Nancy Denardi  
3 was terminated on 5/8 for falsifying time  
4 records for another employee.

5 Q. Other than stating a date of the  
6 termination, there is no description of what  
7 occurred during that meeting when she was told  
8 she was being terminated, correct?

9 A. Not by myself.

10 Q. Well, who was in the meeting?

11 A. Mark Newton was also in the meeting  
12 on 5/8.

13 Q. And Nancy Denardi was there, correct?

14 A. Yes.

15 Q. And yourself, correct?

16 A. Um-hum.

17 Q. Did you ever see any statements that  
18 Mr. Newton wrote about what occurred on May 8?

19 A. No, I have not.

20 Q. Did you ever write any statements  
21 about what occurred during the meeting on May 8?

22 A. No. Just this indication here for  
23 that day.

24 Q. That the termination occurred on  
25 May 8, correct?

1 V. Barkyani

2 the organizational charts and the job duty  
3 sheets. Were those documents that have already  
4 been marked as exhibits during the depositions?

5 A. I believe so, and I had one sheet  
6 with a few dates on it that we just went over,  
7 some of the dates that were previously asked  
8 that I didn't have the exact date.

9 Q. Were those notes that you had made?

10 A. Just my own notes.

11 Q. Did you review any notes that you  
12 took during any of the depositions you have  
13 attended to prepare for today's deposition?

14 A. No.

15 Q. Did you speak to Mark Newton on  
16 May 5 about your interaction with Mrs. Denardi  
17 at around 10 o'clock during the morning?

18 MS. BURNS: Objection to form.

19 You can answer.

20 A. I spoke to Mark shortly before I  
21 left for the day, which was around lunchtime on  
22 Friday the 5th.

23 Q. Why were you leaving at lunchtime?

24 A. I had an appointment that day, I  
25 believe.

1 V. Barkyani

2 A. I could have printed it out on more  
3 than one occasion, if I updated something. I  
4 could have reprinted it and then just added  
5 notes to it later.

6 Q. Do you know for a fact whether that  
7 is what you did? I really don't want you to  
8 guess. We are not here for guessing.

9 A. Then I can't answer your questions  
10 here. I did not date the document, and I did  
11 not date every entry on it, so I can't answer  
12 your question.

13 Q. Did you ever give Mrs. Denardi any  
14 written memo or warning about any of the  
15 incidents that you have attributed to her?

16 A. No.

17 Q. Did you ever give Heather Denardi  
18 any written memo or warning about any of the  
19 incidents you attribute to her?

20 A. No, this was not used for write-up.  
21 It was a list that I made. When I need to talk  
22 to employees about certain things, I jot it  
23 down, and then, when I have time, many of these  
24 things Nancy and I discussed.

25 Q. Did you ever have a meeting with

1 V. Barkyani

2 punch out during lunch because she was going to  
3 be discussing Cerner with you while you ate?

4 A. Yes.

5 Q. What about Carol Gustin?

6 A. Carol fills out a time sheet. She  
7 accounts for her time a little differently, so  
8 I'm not sure.

9 Q. Was she paid when she would have  
10 lunch? Was she paid during her lunch period?

11 A. No.

12 Q. And, if she didn't punch out, then  
13 there would be no record that she was at lunch  
14 during that period, correct?

15 A. It automatically deducts it if you  
16 go over six hours, the software.

17 Q. What proof do you have other than  
18 what you are testifying to that Jackie was  
19 working on a Cerner project during lunch for  
20 any period of time?

21 MS. BURNS: Objection to form.

22 You can answer.

23 A. It is my testimony. That is all.

24 Q. The last time you were deposed, we  
25 talked about an employee named Carolyn Huyler.

1 V. Barkyani

2 Do you recall discussing her during your last  
3 deposition?

4 A. Briefly.

5 Q. She had some performance problems,  
6 is that correct?

7 A. Yes.

8 Q. According to records that we recently  
9 received from DRA, you had a number of meetings  
10 at which you sat down with Nancy Denardi and  
11 discussed Mrs. Huyler's performance deficiencies.

12 Do you remember having meetings at  
13 which you discussed Mrs. Huyler's performance  
14 problems?

15 A. Yes.

16 Q. When you met with Ms. Huyler to  
17 discuss her performance problems, did you  
18 outline what the problems were?

19 A. Yes.

20 Q. You told her what she was doing  
21 wrong?

22 A. Yes.

23 Q. And were you doing that in an  
24 attempt to help her to improve?

25 A. Yes.



1 V. Barkyani

2 Q. When you first detected a performance  
3 problem, you just didn't go in and fire her,  
4 correct?

5 A. That's correct.

6 Q. And you had a number of meetings  
7 with her, correct?

8 A. Informal as well as formal.

9 Q. And, when there was a formal  
10 meeting, you prepared a write-up?

11 A. That's correct.

12 (Plaintiff's Exhibit 15, Memo  
13 reflecting meeting of April 11, 2005, was  
14 so marked for identification.)

15 Q. Tell me after you have had a chance  
16 to look at Exhibit 15.

17 A. Okay.

18 Q. Did you prepare Exhibit 15?

19 A. Yes.

20 Q. Does that reflect a meeting that you  
21 had with Carolyn Huyler with Nancy Denardi on  
22 April 11, 2005?

23 A. Yes.

24 Q. During that meeting, did you outline  
25 some of the deficiencies that you observed with

1 V. Barkyani

2 regard to Ms. Huyler's performance?

3 A. Yes.

4 Q. Did you give her suggestions during  
5 that meeting as to how she could improve?

6 A. Yes, there was an ongoing process  
7 with Carolyn constantly giving her suggestions  
8 and hints at how to better perform her job.

9 Q. Did you find that procedure helpful  
10 where you would sit down with an employee, and  
11 if there was a problem, outline the problems  
12 and try to strategize as to how the employee  
13 could improve?

14 A. Yes.

15 Q. Did you feel that that was one of  
16 your job responsibilities as billing department  
17 manager?

18 A. Yes.

19 Q. The reporter has marked Plaintiff's  
20 Exhibit 16.

21 (Plaintiff's Exhibit 16, Memo  
22 reflecting meeting, was so marked for  
23 identification.)

24 A. Okay.

25 Q. Did you prepare Exhibit 16?

1 V. Barkyani

2 A. Yes.

3 Q. This reflects another meeting that  
4 you had with Carolyn Huyler about her performance?

5 A. That's correct.

6 (Plaintiff's Exhibit 17, Final  
7 warning signed June 23, 2005, was so  
8 marked for identification.)

9 Q. If you could look at Exhibit 17 and  
10 let me know when you are done.

11 A. Okay.

12 Q. Did you prepare Exhibit 17?

13 A. Yes, I did.

14 Q. That is a written warning, a final  
15 warning that you issued to Carolyn Huyler, is  
16 that correct?

17 A. That's correct.

18 Q. And she signed it on June 23, 2005,  
19 correct?

20 A. Yes.

21 Q. How long a period of time would you  
22 say you spent prior to issuing this final  
23 warning coaching and counseling her about her  
24 performance problems and helping her to improve?

25 MS. BURNS: Objection to form.

1 V. Barkyani

2 You may answer.

3 A. Carolyn's issues went back to even  
4 when Gail Platt was there, so years. Probably  
5 a year and a half at the point that I wrote  
6 these up. I tried to sit with Carolyn and  
7 retrain and give her guidelines. Ronnee  
8 Monroe also sat with Carolyn, tried to show her  
9 how she would work certain things.

10 I am sure Nancy had some dealings  
11 with Carolyn in reviewing some of the errors  
12 that we would find in her work, so it was a  
13 long time of training and trying to retrain  
14 before I started the write-up process.

15 Q. Were some of the problems that she  
16 had pretty serious problems?

17 A. As far as?

18 Q. Her position.

19 A. Causing work flow problems?

20 Q. Yes.

21 A. Yes.

22 Q. What was her job?

23 A. She performed the charge function  
24 for the hospitals.

25 Q. And it appears from reviewing the

1 V. Barkyani

2 documents, and please correct me if I am wrong,  
3 that she was having difficulty in many different  
4 areas performing her job, is that correct?

5 MS. BURNS: Objection to form.

6 You may answer.

7 A. Her job entailed many different  
8 functions, so, yes, she had a difficult time  
9 almost in each function that she did.

10 Q. And in the final warning it talks  
11 about an error rate being high. Do you see  
12 that in the third bullet?

13 A. Yes.

14 Q. Does that mean she was making a lot  
15 of mistakes?

16 A. Yes.

17 Q. Was she also having difficulty in  
18 speaking with patients?

19 A. Yes.

20 Q. Were there any issues about racial  
21 comments that she had made?

22 A. Yes.

23 Q. Were there any problems with  
24 anti-Semitic comments that she had made?

25 A. Yes. That was reported to me at one

1 V. Barkyani

2 point too.

3 Q. Did you find that to be unacceptable  
4 in the workplace?

5 A. Absolutely.

6 Q. You don't want your employees making  
7 racial comments, do you?

8 A. Absolutely not.

9 Q. And you don't want your employees  
10 making disparaging comments about Jews, do you?

11 A. Correct.

12 Q. When were those issues brought to  
13 your attention, first brought to your attention?

14 A. Which issues?

15 Q. That she had made some racial comments  
16 or some anti-Semitic comments.

17 A. I don't have a date.

18 Q. When was she terminated?

19 A. I don't know that she was terminated.  
20 She went out on disability.

21 Q. How soon after she received this  
22 final warning did she go out on disability?

23 A. Pretty close to this date, I think.  
24 I don't have the exact date.

25 Q. Were the comments that she had made,

1 V. Barkyani

2 the racial comments and the anti-Semitic  
3 comments, made before she received the final  
4 warning?

5 A. Yes.

6 Q. Were they made before your April  
7 meetings with her?

8 A. Yes.

9 (Plaintiff's Exhibit 18, Payroll form  
10 for January 7, 2005 through December 22,  
11 2006, was so marked for identification.)

12 Q. Please take a look at Exhibit 18 and  
13 let me know after you have done that.

14 A. Okay.

15 Q. What is Exhibit 18?

16 A. It looks like an HR form for payroll.

17 Q. Does your handwriting appear on this  
18 form at all?

19 A. No.

20 Q. Was this document prepared by Sue K.?

21 A. I believe so.

22 Q. And this is a payroll form for your  
23 sister, correct?

24 A. Yes, her name is at the top of the  
25 form.

V. Barkyani

where she worked 80 hours after April of '06  
where she worked overtime, correct? For example,  
June 23, '06?

A. It looks like maybe three or four  
weeks for the year. Three or four weeks out of  
the year.

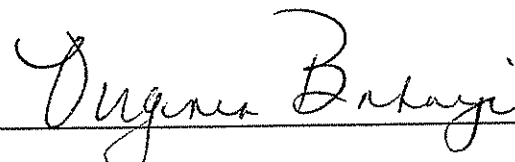
Q. I'm not asking you to quantify it.  
My question was did she work overtime after  
April '06?

A. It looks like there are a few  
payrolls with overtime.

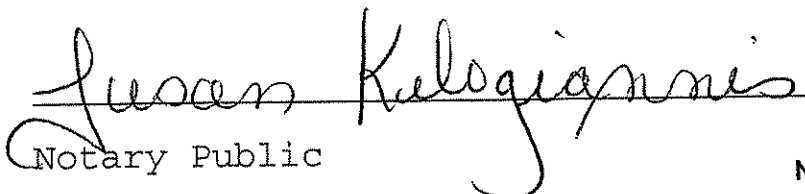
(Recess taken)

MS. PERRY: I have no further  
questions.

(Time noted: 2:57 p.m.)

  
VIRGINIA BARKYANI

Subscribed and sworn to before me -  
this 29 day of August, 2008.

  
Notary Public

SUSAN KALOGIANNIS  
Notary Public, State of New York  
No. 01KA6040547  
Qualified in Ulster County  
Commission Expires April 24, 2010



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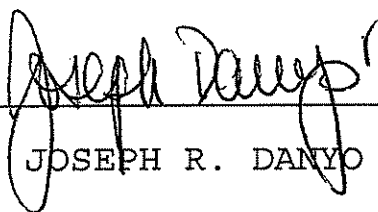
C E R T I F I C A T I O N

I, Joseph R. Danyo, a Shorthand  
Reporter and Notary Public, within and for the  
State of New York, do hereby certify:

That I reported the proceedings in  
the within entitled matter, and that the within  
transcript is a true record of such  
proceedings.

I further certify that I am not  
related, by blood or marriage, to any of the  
parties in this matter and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 24th day of July, 2008.

  
JOSEPH R. DANYO

Re: *DeNardi v. DRA Imaging, P.C., et al.*, 07 Civ. 5794 (MGC)

*Virginia Barkanyi*  
Virginia Barkanyi

Juan Rodriguez  
Notary Public

**SUSAN KALOGIANNIS**  
Notary Public, State of New York  
No. 01KA6040547  
Qualified in Ulster County  
Commission Expires April 24, 20 10